

# CITY OF BLOOMINGTON



**September 21, 2017 @ 5:30 p.m.  
COUNCIL CHAMBERS #115  
CITY HALL**

CITY OF BLOOMINGTON  
BOARD OF ZONING APPEALS  
September 21, 2017 at 5:30 p.m.

**\*Council Chambers - Room #115**

**ROLL CALL**

**MINUTES TO BE APPROVED:** 6/22/17

**REPORTS, RESOLUTIONS, AND COMMUNICATIONS:**

**PETITIONS CONTINUED TO:** 10/19/17

- UV-18-17      **City of Bloomington Parks & Recreation**  
1611 S. Rogers St.  
Request: Use variance to allow a parking lot in the floodway.  
Case Manager: Eric Greulich
- V-19-17      **H.M. Mac Development, LLC**  
325, 335, 337 S. Walnut St.  
Request: Variance from minimum driveway separation requirements to allow an existing drive cut.  
Case Manager: Eric Greulich
- V-20-17      **City Optical**  
2552 E. 3<sup>rd</sup> St.  
Request: Variance from signage standards.  
Case Manager: Jackie Scanlan
- V-21-17      **Royal Toyota**  
3115 S. Walnut St. (*vacant land north of this site*)  
Request: Variances from front yard parking setback and landscaping standards.  
Case Manager: Jackie Scanlan
- CU-24-17      **Wheeler Mission**  
215 S. Westplex Ave.  
Request: Conditional use approval for the temporary expansion of an existing homeless shelter.  
Case Manager: Amelia Lewis

**PETITIONS:**

- V-22-17      **Old National Bank**  
2718 E. 3<sup>rd</sup> St.  
Request: Variances from building and parking setback. Also requested is a variance from maximum number of parking spaces to allow a new restaurant.  
Case Manager: Eric Greulich

**BLOOMINGTON BOARD OF ZONING APPEALS  
STAFF REPORT  
Location: 2718 E. 3<sup>rd</sup> Street**

**CASE #: V-22-17  
DATE: September 21, 2017**

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**PETITIONER:** Old National Bank  
One Main Street, Evansville

**CONSULTANT:** Bynum Fanyo & Associates, Inc.  
528 N. Walnut St, Bloomington

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**REQUEST:** The petitioner is requesting a variance from building and parking setback standards and from the maximum number of allowed parking spaces to allow the construction of a new fast food restaurant.

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**STAFF REPORT:** This 0.92 acre property is located at the southeast corner of S. College Mall Road and E. 3<sup>rd</sup> Street and is zoned Commercial Arterial (CA) and Planned Unit Development (PUD). Surrounding land uses include the College Mall to the south and east and commercial businesses to the north and west. The building has been most recently used by Old National Bank and has been vacant for several years.

The petitioner is proposing to demolish the current building in order to construct a new Burger King fast food restaurant on this site. The new building is proposed to be 2,811 sq. ft. with 35 parking spaces proposed. A drive-thru has been shown on the east side of the building. There is an existing 5' wide sidewalk in place along College Mall Road and an 8' wide asphalt sidepath along the 3<sup>rd</sup> Street frontage.

The petitioner is requesting a variance from the 15' front yard building setback standards to allow an 8.95' setback at the northwest corner of the building. The rest of the building will meet the required setbacks. The petitioner is also requesting a variance from front yard parking setback standards to allow the proposed drive-thru lane on the north side of the site to be even with the front of the building, rather than the required 20' setback behind the front of the building. Also requested is a variance from the maximum number of parking spaces allowed. Based on the size of the building, 15 parking spaces would be permitted. The petitioner is requesting to have 35 parking spaces.

As part of the redevelopment of the site, the property must come into compliance with all sections of the UDO. Required site improvements include new street trees along both street frontages, planting new landscaping throughout the property, installation of bike racks, and a dumpster enclosure.

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**SITE PLAN ISSUES:**

**Building Architecture/Design:** Since the building is located within 300' of a primary arterial road it is subject to the Architectural standards of the UDO. The building will be finished with a brick exterior and standing seam metal roof with large windows. The proposed building meets the architectural requirements.

**Access:** A sidewalk connection has been shown from the front door to the sidewalk along both College Mall Road and 3<sup>rd</sup> Street. Vehicular access to the property will be from 2 existing entrance drives, one on College Mall Road and one on 3<sup>rd</sup> Street. Although the drive location on College Mall Road does not meet the 150' setback requirement from the intersection, it is located as far from the intersection as possible and is permitted. No problems have been identified from either of the current entrance drive locations.

**Landscaping:** With the new use on the property, the property is required to meet all landscaping requirements. The petitioner has submitted a landscape plan that meets UDO requirements.

**Parking:** The UDO allows for a maximum of one parking space per 200 sq. ft. of gross floor area. Based on the size of the restaurant (2,811 sq. ft.) the property would be allowed a maximum of 15 parking spaces. There will be 12 employees at this location on the largest shift. The petitioner is requesting a variance from the maximum number of parking spaces to allow for 35 parking spaces.

In order to justify such a deviation from code, the petitioner has performed parking studies at two of their local Burger King restaurants to provide parking usage data (included in packet). These studies have been included in the packet. The studies show that there is a peak usage time between 11:00 AM and 1:00 PM during the weekdays. Each location shows a parking need during that peak time period that is closer to one space per 1,000 sq. ft. of floor area.

The Department believes that the petitioner's study, along with local observations, seems to indicate a need for 28 spaces for patrons and employees and is the more appropriate number of spaces. The Department believes this ratio is consistent with previous variances from parking maximums that are based on a demonstrated actual need.

**Pedestrian Facilities:** There is a sidewalk along the College Mall frontage and a sidepath along the 3<sup>rd</sup> Street frontage that is in good condition. No new sidewalk connections are required.

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## CRITERIA AND FINDINGS FOR DEVELOPMENT STANDARDS VARIANCE

**20.09.130 e) Standards for Granting Variances from Development Standards:** A variance from the development standards of the Unified Development Ordinance may be approved only upon determination in writing that each of the following criteria is met:

- 1) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community.*

### RECOMMENDED FINDING:

**Building Setback:** The granting of the variance from the standards will not be injurious to the public health, safety, or morals. The location of the building closer to the northwest corner of the site actually allows the building to be more

consistent with other buildings along the road frontage.

**Parking Setback:** The granting of the variance from the standards will not be injurious to the public health, safety, or morals. The location of the drive-thru within the parking setback does not place a drive-thru lane between the building and the street and has a building forward design which is consistent with the intent of the UDO.

**Parking Number:** The granting of the variance from the standards will not be injurious to the public health, safety, or morals. The proposed number of parking spaces will appropriately serve the needs of the restaurant patrons and employees and limit impacts to adjacent properties.

- 2) *The use and value of the area adjacent to the property included in the Development Standards Variance will not be affected in a substantially adverse manner.*

#### **RECOMMENDED FINDINGS:**

**Building Setback:** No negative effects are found from this proposal on the use and value of the areas adjacent to the property. A positive impact on the use and value of the adjacent areas could be expected due to the redevelopment of this property.

**Parking Setback:** No negative effects from this proposal are found on the use and value of the areas adjacent to the property. The location of the drive-thru lane does not hinder pedestrian's ability to access the site nor place the drive-thru lane between the building and the street.

**Parking Number:** No negative effects from this proposal are found on the use and value of the areas adjacent to the property. The granting of this variance will allow an appropriate number of parking spaces on this site which will help minimize any negative impacts from spillover parking on adjacent properties.

- 3) *The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property; that the practical difficulties are peculiar to the property in question; that the Development Standards Variance will relieve the practical difficulties.*

#### **RECOMMENDED FINDING:**

**Building Setback:** The strict application of the UDO will result in practical difficulty in that it would require the building to be located further back from the street frontages than what is desired. Peculiar condition is found in the irregular shaped property corner that has resulted from right-of-way acquisition from INDOT. This irregular lot shape creates a practical difficulty in aligning the building and creating a standard setback. Allowing the building to be located closer to the road frontages creates a more pedestrian friendly design.

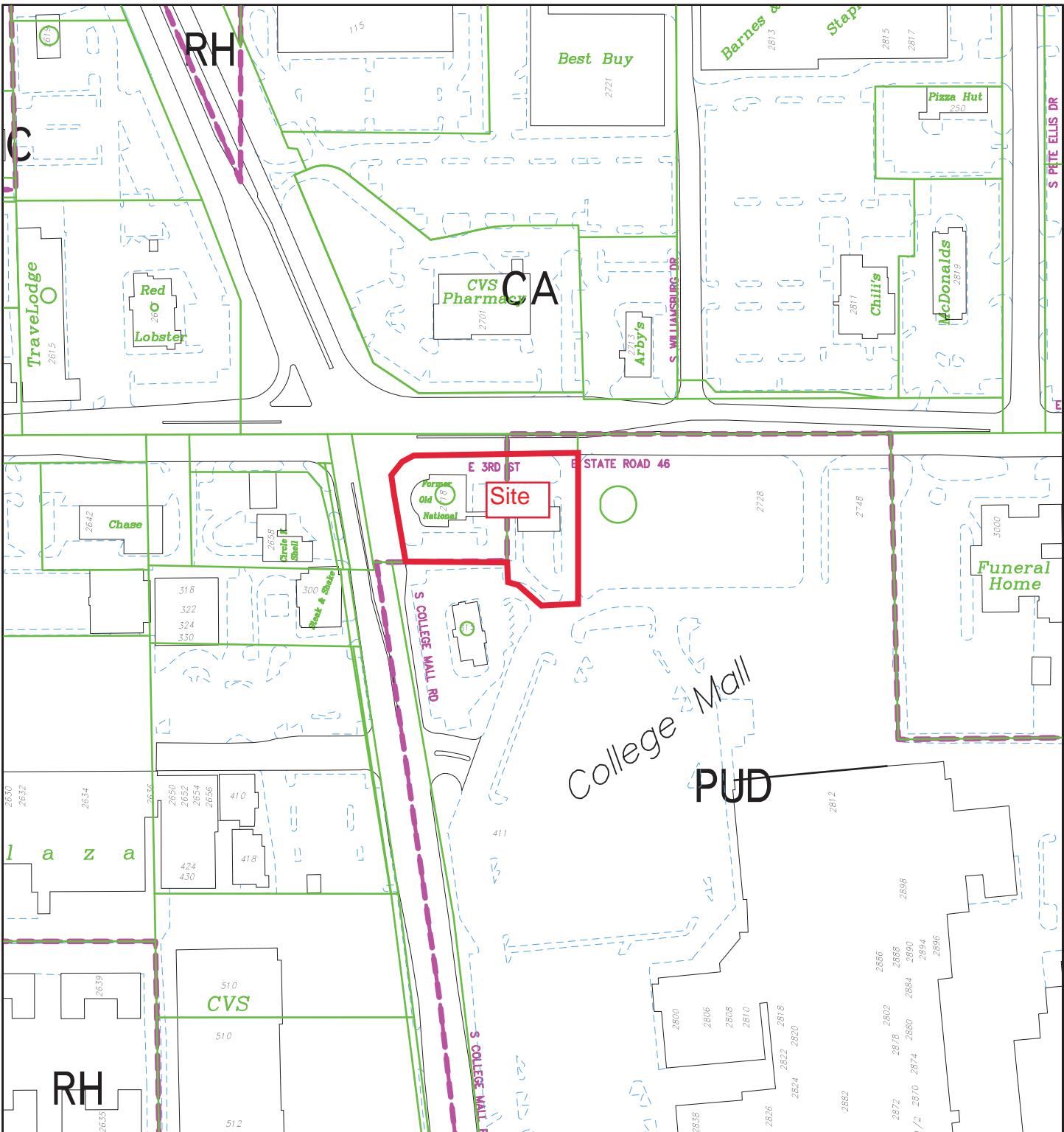
**Parking Setback:** Staff finds that the strict application of the UDO will result in practical difficulty in the use of the property in that requiring the drive-thru lane to be 20' behind the building results in an inefficient site layout and allowing the drive-thru lane as shown allows a driveway aisle to function with the drive-thru lane. Peculiar condition is also found in that this is a corner lot with two street frontages which places additional hardship on designing an efficient site plan.

**Parking Number:** Staff finds that the strict application of the UDO will result in practical difficulty in that the number of spaces allowed by code does not match the demonstrated needs of this use. A parking study was conducted by the petitioner and staff which found that fast food restaurants do have a parking need greater than the 1 space per 200 sq. ft. that the UDO would allow. Peculiar condition is found in the demonstrated need of the proposed use. The reduction from 37 to 15 spaces would result in a site that would be difficult to use as allowed. Rather, the variance is being requested to fulfill a parking need that is under-represented by the UDO. When developing maximum parking requirements of the UDO it was understood that some uses would be justified in seeking variances. Staff finds this to be one of those cases.

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**RECOMMENDATION:** Staff recommends approval of the variances with the following conditions:

1. A maximum of 28 parking spaces is approved.
2. Parking setbacks are approved only as shown.

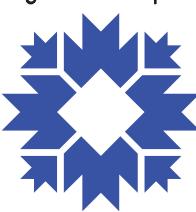


V-27-17 Old National Bank  
2718 E 3rd Street  
Board of Zoning Appeals  
Site Location, Zoning, Parcels, Land Use

By: greulice

14 Sep 17

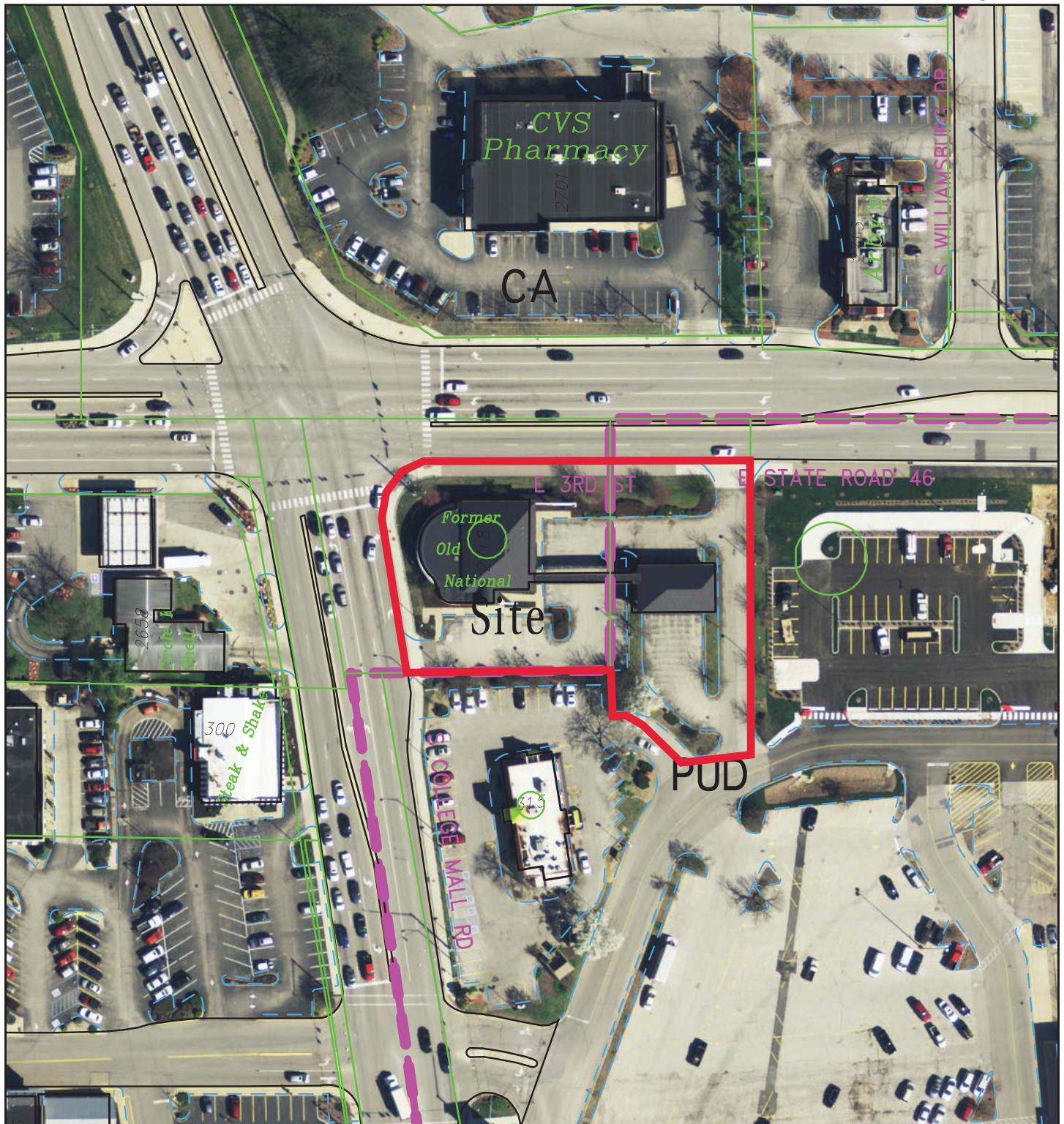
A horizontal number line starting at -200 and ending at 200. The line has tick marks every 20 units, labeled with the values -200, 0, and 200.



City of Bloomington  
Planning & Transportation

Scale: 1" = 200'

For reference only; map information NOT warranted.



V-22-17 Old National Bank

2718 E 3rd Street

Board of Zoning Appeals

2016 Aerial Photograph

By: greulice

14 Sep 17 100

0

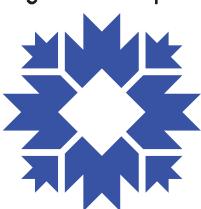
100

200

300

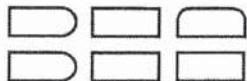
N

City of Bloomington  
Planning & Transportation



Scale: 1" = 100'

For reference only; map information NOT warranted.



BYNUM FANYO & ASSOCIATES, INC.

ARCHITECTURE  
CIVIL ENGINEERING  
PLANNING

August 22, 2017

Bloomington Board of Zoning Appeals  
401 N. Morton Street  
Bloomington, Indiana 47403

Re: Burger King Restaurant, 2718 E. Third Street, BFA #401734

Dear BZA Members:

Our client respectfully requests three variances from the development standards listed in the UDO. The variances include building setback, setback for a drive thru window and maximum number of parking spaces.

**Building Setback:**

Over the past thirty years this property has had right of way taken from the west and north property lines numerous times. As a result, the current right of way line at the north-west corner of the property cuts diagonally across the corner of the west and north property lines. This right of way was not required for the construction of this intersection but rather an easy way to write the legal description for the acquisition. Normally the right of way would follow the radius of the back of sidewalk. If this was done no variance would be required. However, the angle of the right of way taking removes an additional 16' of unnecessary and unusable property from this project along the entire west side of this site. The method the right of way taking described has negatively impacted the use of this property. Approval of the variance will not adversely impact the public use of the intersection and will improve the site design by allowing the building to be closer to the right of way with its proposed entrances.

**Drive Thru Window Setback:**

Recently Panera Bread and Chick-fil-A developed drive thru isles that are located at the face of the building. This was allowed since both properties are in the Simon PUD. The eastern portion of our property also falls within the Simon PUD and would allow for a similar drive thru arrangement.

Unfortunately, this is a corner lot and requires the 20' setback from College Mall Road as well as 3<sup>rd</sup> Street. We are not able to shift the building to accommodate the drive thru in the PUD and arrange our site design to accommodate the setbacks due to a 48" culvert dividing our property into two parts. For this reason, we are requesting a variance to allow the drive thru lane to be placed at the front building setback. This will allow a building forward design along 3<sup>rd</sup> and College Mall Road and still accommodate parking, landscaping and the existing culvert dividing our site.

**Maximum Parking Spaces:**

We are proposing 33 regular parking spaces and 2 ADA parking spaces for a total of 35 parking spaces. The UDO allows one space for every 200 gsf. This would equate to 15 parking spaces. This restaurant will have 12 employees during its peak shift leaving only two parking for patrons. We have completed a parking study at two of Bloomington's other Burger King restaurants, see attached, and have found that at peak times 36 to 38 parking spaces have been utilized. Based upon this study and company experience we would request a maximum parking variance to 35 spaces.

After reviewing our petition please feel free to contact us at any time for questions or clarification.

Sincerely,



Jeffrey S. Fanyo, P.E. CFM

Bynum Fanyo and Associates, Inc.

Attachments: Parking Study

## CC# 842 Bloomington-3750 W Third St

## Burger King Parking Counts

3,500 sq. ft.

11

	<b>Mon</b>	<b>Tues</b>	<b>Wed</b>	<b>Thu</b>	<b>Fri</b>	<b>Sat</b>	<b>Sun</b>
<b>Hours</b>	<b>8/7</b>	<b>8/8</b>	<b>8/9</b>	<b>8/10</b>	<b>8/11</b>	<b>8/12</b>	<b>8/13</b>
6:00-7:00	8	8	9	7	10	6	3
8:00	5	7	8	6	9	4	3
9:00	14	14	21	23	24	29	20
10:00	12	13	12	14	26	25	4
11:00	23	24	21	14	27	24	13
12:00	33	29	34	31	36	17	15
1:00	17	28	26	31	25	10	14
2:00	18	15	14	19	16	9	8
3:00	16	13	8	11	14	11	8
4:00	9	7	7	8	9	8	6
5:00	15	11	15	14	12	11	9
6:00	10	16	13	21	18	10	10
7:00	14	10	12	6	3	13	6
8:00	11	10	14	9	7	9	12
9:00	5	4	8	7	15	10	8
10:00	3	3	7	5	7	7	2
11:00	4	3	5	4	6	6	2

This store has 37 parking places

## CC# 827 Bloomington-2498 S Walnut

## Burger King Parking Counts

3,200 sq. ft.

	<b>Mon</b>	<b>Tues</b>	<b>Wed</b>	<b>Thu</b>	<b>Fri</b>	<b>Sat</b>	<b>Sun</b>
<b>Hours</b>	<b>8/7</b>	<b>8/8</b>	<b>8/9</b>	<b>8/10</b>	<b>8/11</b>	<b>8/12</b>	<b>8/13</b>
6:00-7:00	7	10	7	6	9	5	3
8:00	5	6	7	8	11	6	4
9:00	11	11	18	20	18	22	12
10:00	8	17	8	14	21	23	3
11:00	21	25	21	13	23	23	11
12:00	29	28	31	32	38°	30	27
1:00	15	26	17	28	26	9	22
2:00	14	11	18	16	17	6	8
3:00	11	10	7	11	13	8	5
4:00	6	6	8	6	7	6	5
5:00	10	8	20	13	9	9	6
6:00	9	14	15	20	13	9	7
7:00	11	7	10	7	3	8	5
8:00	8	7	12	8	6	5	8
9:00	5	4	5	5	16	5	5
10:00	4	4	5	4	9	7	2
11:00	3	3	4	4	5	3	2

This store has 40 parking places

# PROPOSED CARROLLS BURGER KING AT COLLEGE MALL

2718 EAST THIRD STREET  
BLOOMINGTON, INDIANA 47401



## INDEX

SHEET NO.	SHEET NAME
C101	GENERAL NOTES & MISCELLANEOUS DETAILS
C102	DETAILED MISCELLANEOUS DETAILS
C201	SITE DEMOLITION PLAN
C202	SITE PLAN
C203	SITE GRADING & UTILITY PLAN
C204	SITE LANDSCAPE PLAN

LOCATION/VICINITY MAP

1" = 1,000'



DIAL 811 BEFORE YOU DIG  
IT IS AGAINST THE LAW TO EXCAVATE WITHOUT NOTIFYING THE  
UNDERGROUND LOCATION SERVICE TWO (2) WORKING DAYS  
BEFORE COMMENCING WORK.

## UTILITY CONTACT INFORMATION

CGS KELVIN 205 S. WADSWORTH ST. BLOOMINGTON, IL 61704 309.467.0000	ELECTRIC DTE ENERGY 4601 E. RAILROAD DR. INDIANAPOLIS, IN 46226 317.274.3535
CABLE TELEVISION COMCAST 100 N. ZEEB RD. DETROIT, MI 48226 800.333.2222	UNDERGROUND UTILITY LOCATION INDIANA, INDIANA 1-800-222-1111
TELEPHONE AT&T 100 N. ZEEB RD. DETROIT, MI 48226 800.231.4000	TELEPHONE SCOTT TAYLOR (812) 332-3222
FAX 100 N. ZEEB RD. DETROIT, MI 48226 800.231.4000	FAX



BYNUM FANYO & ASSOCIATES, INC.

OWNER/DEVELOPER

CARROLLS RESTAURANT GROUP, INC.  
988 JAMES STREET  
SYRACUSE, NY 13203

PRELIMINARY  
NOT FOR  
CONSTRUCTION

certified by:  
PRELIMINARY  
LEFFREY S. FANYO, P.E.  
NO. REC. NO. 6010823

revisions

13  
CARROLLS BURGER KING  
BFA NO. 401734

## GENERAL NOTES

1. ALL SONS PAYMENT ARRANGEMENTS, AND OTHER WRITE DOWN PAYMENT ARRANGEMENTS, WHICH ARE MADE ON AN INTRADAY BASIS, ARE SUBJECT TO THE SAME PENALTY AS PAYMENT ARRANGEMENTS WHICH ARE MADE ON AN EXTRADAY BASIS.

2. ALL DIMENSIONS ARE TO EDGE OF PARTNER UNLESS INDICATED OTHERWISE.

3. CONTRACTOR SHALL BRUSH AND INSTALL PAINTED ARRANGEMENTS AS SHOWN.

4. CONTRACTOR SHALL COORDINATE THE INSTALLATION OF ALL SONS, AMERICAN STAINLESS, AND OTHER TRADE CONTRACTORS WHO EVER CONTRACT WITH US.

5. DIMENTS OR SIZE DIMS ARE TO BE SHARP AND CLEAN AND NOT SHOW EVIDENCE OF DRILLING.

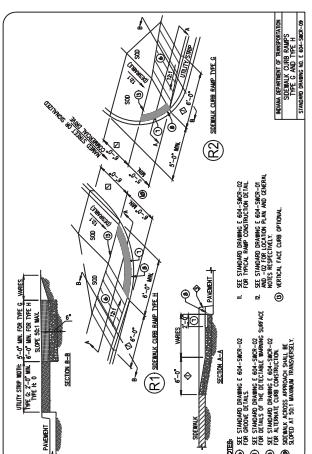
6. CONTRACTOR SHALL SWEEP THE AREA AS NECESSARY.

7. CONTRACTOR SHALL NOT DAMAGE ANY EXISTING CONSTRUCTION, PLUMBING, ELECTRICAL, OR MECHANICAL SYSTEMS, OR EQUIPMENT, OR DAMAGE ANY PROPERTY OWNED BY US, OR DAMAGE ANY PROPERTY OWNED BY A THIRD PARTY, OR DAMAGE ANY PROPERTY OWNED BY A PERSON RELATED TO US.

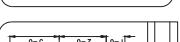
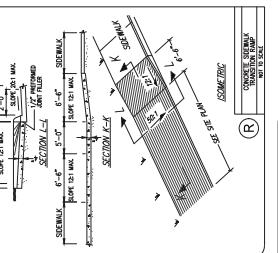
8. CONTRACTOR SHALL COMPLY WITH ALL PERMIT PROVISIONS OF THE MUNICIPAL CODE OF THE CITY IN WHICH THE PROJECT IS LOCATED.

9. CONTRACTOR IS RESPONSIBLE FOR ALL ACCIDENTS OCCURRING ON THE WORK SITE, WHETHER OR NOT THE ACCIDENT IS CAUSED BY THE NEGLIGENCE OF THE CONTRACTOR, THE OWNER, OR A THIRD PARTY.

10. CONTRACTOR IS RESPONSIBLE FOR ALL ACCIDENTS OCCURRING ON THE WORK SITE, WHETHER OR NOT THE ACCIDENT IS CAUSED BY THE NEGLIGENCE OF THE CONTRACTOR, THE OWNER, OR A THIRD PARTY.



DEPARTMENT OF TRANSPORTATION  
SIDEWALK CURB RAMPS  
TYPE C AND TYPE H  
STANDARD DRAWING NO. E-604-2002-CP

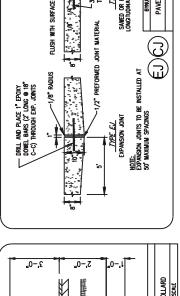
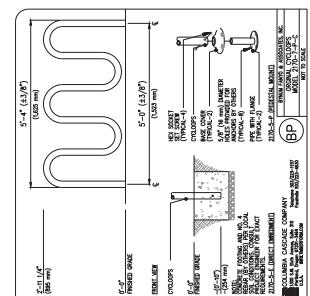


INLET PLACED AT  
END OF TUBE

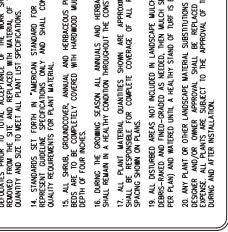


GRADING NOTES

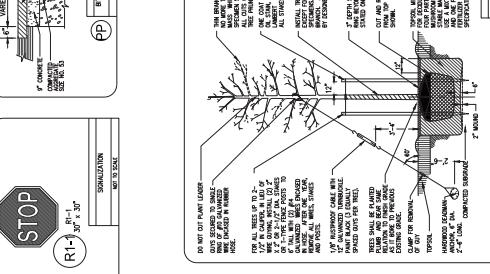
ON-SITE UTILITY NOTES



LANDSCAPE NOTES



PRELIMINARY  
NOT FOR  
CONSTRUCTION  
certified by \_\_\_\_\_



sheet no: C101  
project no.: 401734



### *revisions:*

## EXISTING LEGEND



SCALE: 1

SOCIALES, INC.	CIVIL ENGINEERING	PLANNING	BROWNSVILLE, TEXAS
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RELMINAR  
NOT FOR  
INSTRUCTION

ER KING ALI COLLEGE MALL

CARROLLS BURGERS  
2718 E 3RD STREET  
WHITE DEMARLA  
LAN

ed by JBT  
by JBT  
d by JSF  
no: C201  
no: 101724

EXISTING LEGEND	
PROPERTY LINE	
1/2 DIA. IRON WATER MAIN PIPE	
CONDUIT & ELEVATION PIPE	
SEWER & SANITARY SEWER MAIN	
10' DIAM. PLATED CLOTH SANITARY SEWER MAIN	
ONE-PIECE UNDERGROUND ELECTRIC LINES	
ROPE — UNDERGROUND ELECTRIC LINES	
— TIE — UNDERGROUND TELEPHONE LINES	
DUCT — UNDERGROUND TELEPHONE LINE	
ROPE — GAS LINE PIPE	
EX. SPOT GRAVE	
	■■■■■

<b>DEMOLITION LEGEND</b>		
T.B.R.	TO BE REMOVED	
T.R.U.		TO REMAIN UNDISTURBED

LINE	LINE	BEARING
1	1	S 84°27'
2	2	N 04°47'
3	3	N 03°47'
4	20, 17	N 03°47'
4	21, 17	N 84°05'
5	18, 65	S 89°29'E
6	6, 45	S 89°29'E
7	7	S 07°55'
8	12, 66	N 08°44'
9	13, 55	N 08°44'
10	5, 50	S 07°54'
11	46, 78	N 89°27'
12	5, 33	S 89°27'
13	19, 07	S 07°55'

20°27'49" N, 15°54'49" E, 1,572 m, 17.1°C, 1.7% RH, 100% HUMIDITY, 100% LIGHT, 100% DRYNESS, 100% FRESHNESS

**NOTE TO CONTRACTOR**  
YOU SHALL VERIFY ALL UTILITY LOCATIONS & DEPTHS AND NOTIFY  
THE CITY OF ANY INACCURACIES IN LOCATION OR ELEVATION OR ANY  
ALTERATIONS MADE TO OR AFTER ANY EXCAVATION. NO PAYMENT SHALL BE MADE  
FOR UTILITY DESTRUCTION OR UNDERGROUND CHANGES  
TO CONFIRMING EXCAVATIONS.

**EAST THIRD STREET  
(S.R. 46)**

This construction plan illustrates the reconstruction of East Third Street (S.R. 46) over a 1.5-mile length, starting from S. College Mall Rd. and ending at L13. The plan shows the following key features:

- Utility Relocations:** The project involves the relocation of various underground utilities, including:
  - Water Lines:** Relocation of water lines from S. College Mall Rd. to L13.
  - Sewer Lines:** Relocation of sewer lines from S. College Mall Rd. to L13.
  - Gas Lines:** Relocation of gas lines from S. College Mall Rd. to L13.
  - Other Utilities:** Relocation of electric, telephone, and cable lines.
- Construction Phases:** The plan indicates different phases of construction, such as "EX-ASPHALT TARS" and "EX-CONCRETE AND CURB TARS".
- Geographic Labels:** Key locations include S. COLLEGE MALL RD., L13, and L7.
- Section Details:** Cross-sections provide detailed views of the utility configurations and construction methods used for each segment of the street.



NOTE TO CONTRACTOR

NOTE TO OWNER & CONTRACTOR

THE DRAWING CONDITIONS PERTAIN TO SURVEY AND BOUNDARY LINES.  
THESE PLANS WERE PROVIDED BY BRYAN FANTO & ASSOCIATES INC. BY THE  
CLIENT.

1718 E 3RD STREET

BLUFFWOOD BURGER KING AT COLLEGE MALL

PRELIMINARY

NOT FOR

CONSTRUCTION

PRELIMINARY  
NOT FOR  
CONSTRUCTION

Certified by:

[Signature]

Date:

[Date]

Architect:

[Signature]

Date:

[Date]

Engineer:

[Signature]

Date:

[Date]

Surveyor:

[Signature]

Date:

[Date]

Plumber:

[Signature]

Date:

[Date]

Electrician:

[Signature]

Date:

[Date]

Architectural:

[Signature]

Date:

[Date]

Structural:

[Signature]

Date:

[Date]

Mechanical:

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Electrical:

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Date:

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Plumbing:

[Signature]

Date:

[Date]

Landscaping:

[Signature]

Date:

[Date]

Site Work:

[Signature]

Date:

[Date]

Excavation:

[Signature]

Date:

[Date]

Excavator:

[Signature]

